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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA, HELENA DIVISION**

ROXELLA LYONS,

Cause No. 6:21-CV-44-BMM-JTJ

Plaintiff,

v.

DUSTON CLEMENTS, an individual
residing in Jefferson County,

Defendant,

**BRIEF IN SUPPORT OF
PLAINTIFF'S UNOPPOSED
FIRST MOTION TO AMEND
COMPLAINT**

After more than four months of litigation, the only thing that Roxella Lyons can be sure of is that no one wants to take responsibility for her false arrest and imprisonment. Jefferson County Sheriff's Deputy Duston Clements blames a Jefferson County dispatcher for telling him the arrest warrant against Ms. Lyons was still valid, when it had been in fact rescinded. Jefferson County claims that Butte-Silver Bow County gave them bad intel. Butte-Silver Bow says it followed procedure (sort of), but that Jefferson County did not properly confirm whether or

not the arrest warrant was still valid. Now, after giving the two counties their statutory time frame to address Ms. Lyons' tort claim and no resolution occurring, Ms. Lyons requests the Court grant leave for her to add Jefferson County and Butte-Silver Bow County as Defendants in this matter.

ARGUMENT

This case was initially filed against Duston Clements on June 7, 2021. Clements filed a Motion to Dismiss on June 29, 2021. Therefore, the time to amend the Complaint without leave of the Court has passed. Pursuant to Fed. R. Civ. P. 15(a)(2), "a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Attached as Doc. 24-1 is the written consent to amendment by Jared Dahle, counsel for Clements.

Additionally, Ms. Lyons notes that this motion is filed prior to the November 12, 2021 stipulated deadline for amending pleadings.

By way of further explanation, Ms. Lyons sent a Notice of Tort Claim to Jefferson County and Butte-Silver Bow County on June 7, 2021 as required by Mont. Code Ann. § 2-9-301. More than 120 days have passed without a resolution with the counties, therefore Ms. Lyons has met the prerequisites to add them as Defendants.

CONCLUSION

Based on the foregoing arguments, Roxella Lyons respectfully requests she be granted leave to amend her Complaint to add Jefferson County and Butte-Silver Bow County as Defendants.

DATED this 8th day of November, 2021.

/s/ Lawrence E. Henke
LAWRENCE E. HENKE
Attorney for the Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 8th day of November, 2021, a true and correct copy of the foregoing document was served on Plaintiff's counsel electronically through the CM/ECF system to:

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/s/ Lawrence E. Henke
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